

Anti-money laundering and tax evasion

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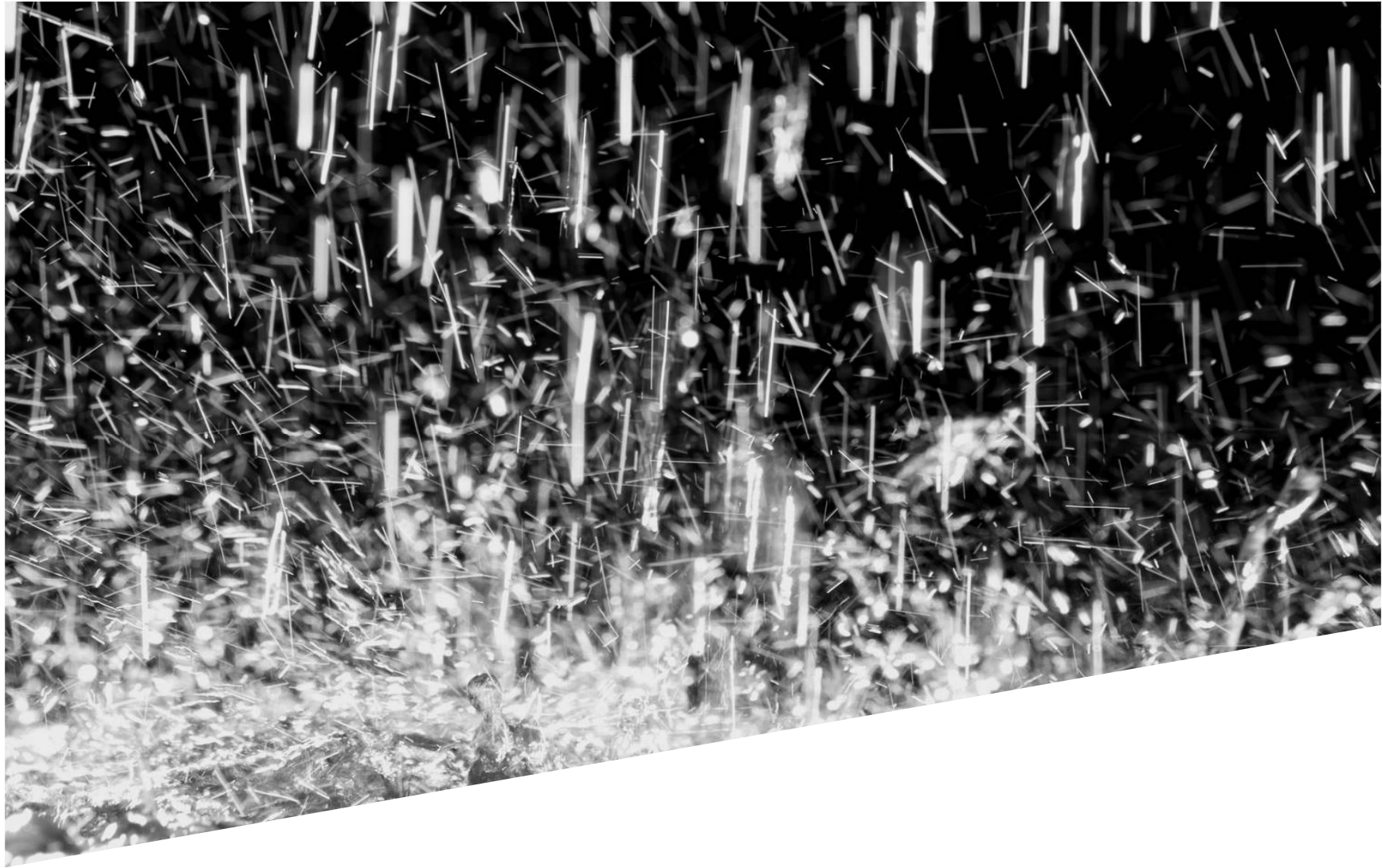


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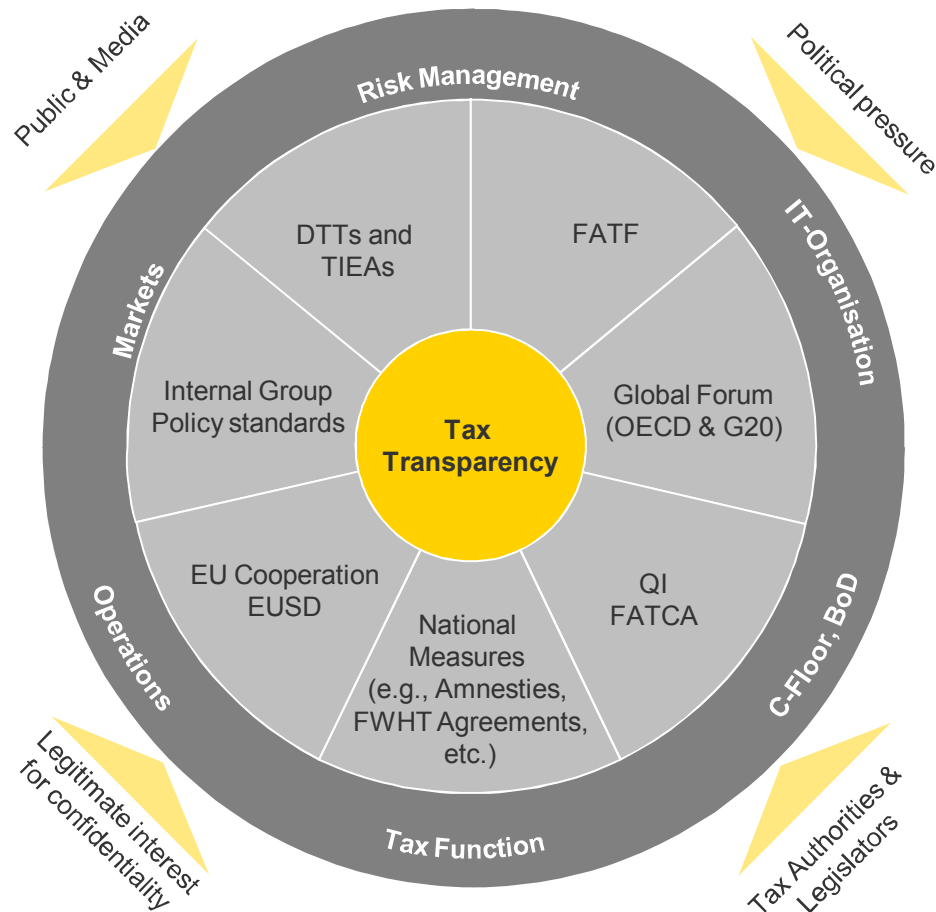
Agenda: Customer tax transparency

- ▶ The Tax Transparency landscape
- ▶ Regulatory developments
- ▶ Financial Action Task Force
- ▶ Tax crimes
- ▶ Tax evasion risk drivers
- ▶ Tax evasion AML program approach

Tax transparency landscape



Tax transparency

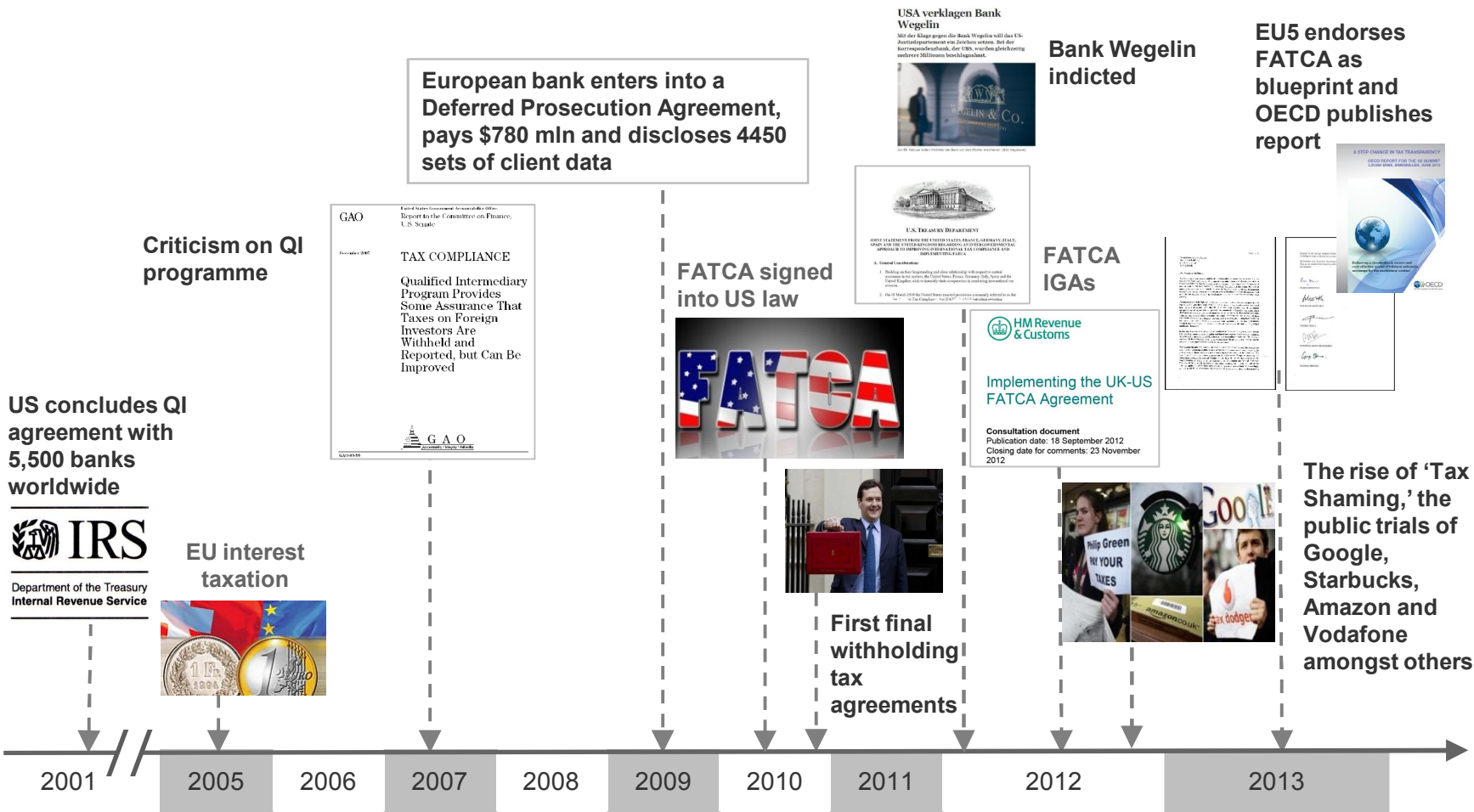


The fiscal landscape is changing rapidly. Many countries have tightened their tax rules and ever more rigorously enforce tax collection in order to finance their spending; simultaneously supranational efforts aim at bringing about greater and more harmonized tax transparency:

- ▶ **Client taxation**
New rules subject financial institutions to enhanced cooperation with tax authorities. Moreover, governments prosecute tax evasion and tax fraud and aiding and abetting therein more thoroughly
- ▶ **Taxation of financial institutions and their employees**
The tax authorities increasingly focus on capturing taxable presences of the financial institution and their employees. Also there is an increased focus on what the 'fair share' of tax should be (OECD Report on Base Erosion and Profit Shifting/Transfer Pricing)
- ▶ **Enhancement of the transparency by several countries and supranational organisations**
OECD initiatives & Automatic exchange of information
Domestic initiatives such as FATCA, QI, tax amnesties or Rubik Agreements, etc.

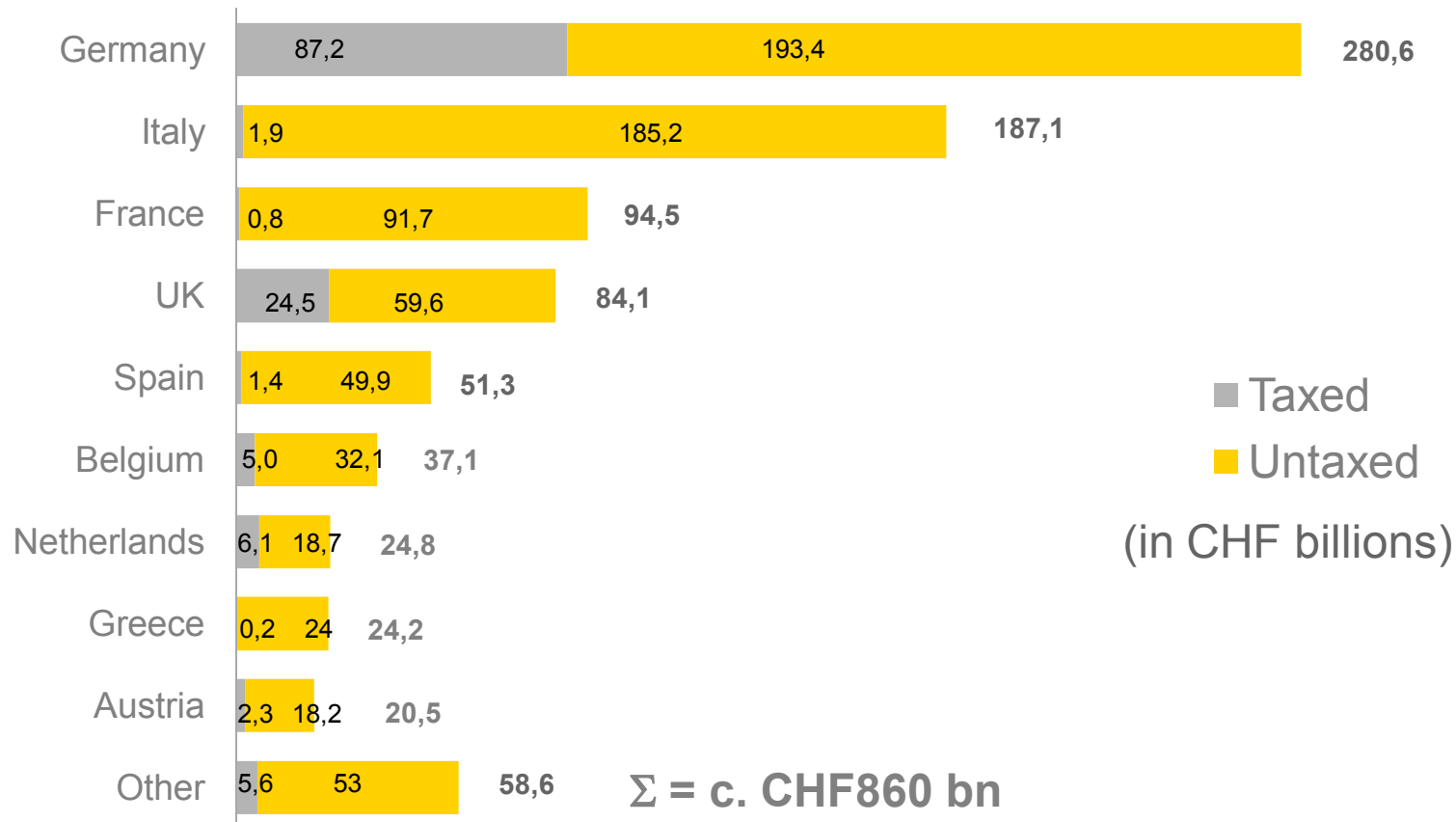
Knowing the rules and practice, keeping track of developments, and achieving compliance in all jurisdictions is a major challenge for financial service groups

The road to tax transparency



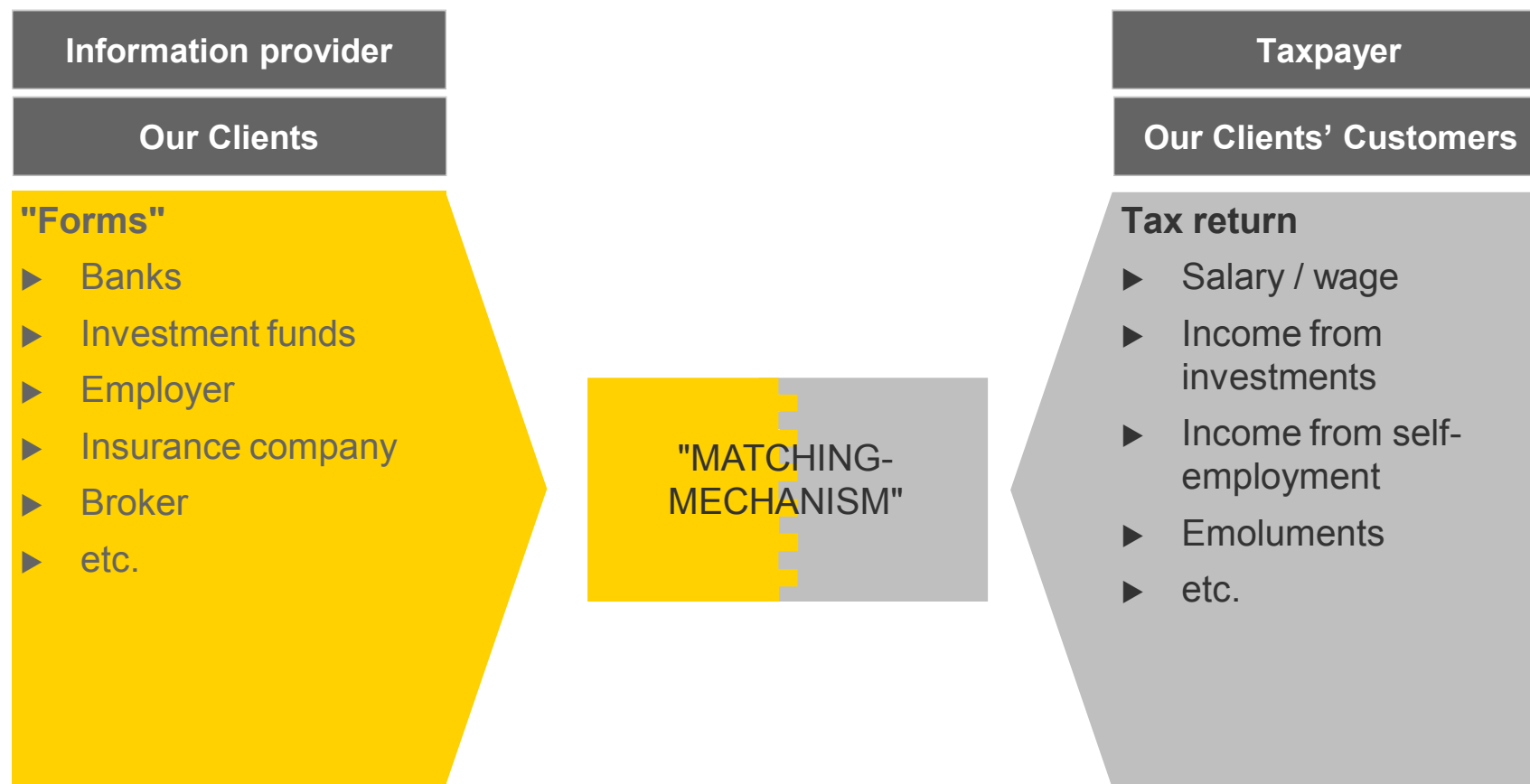
How big is the problem?

Statistics on money held in Swiss private bank accounts would suggest significant.....



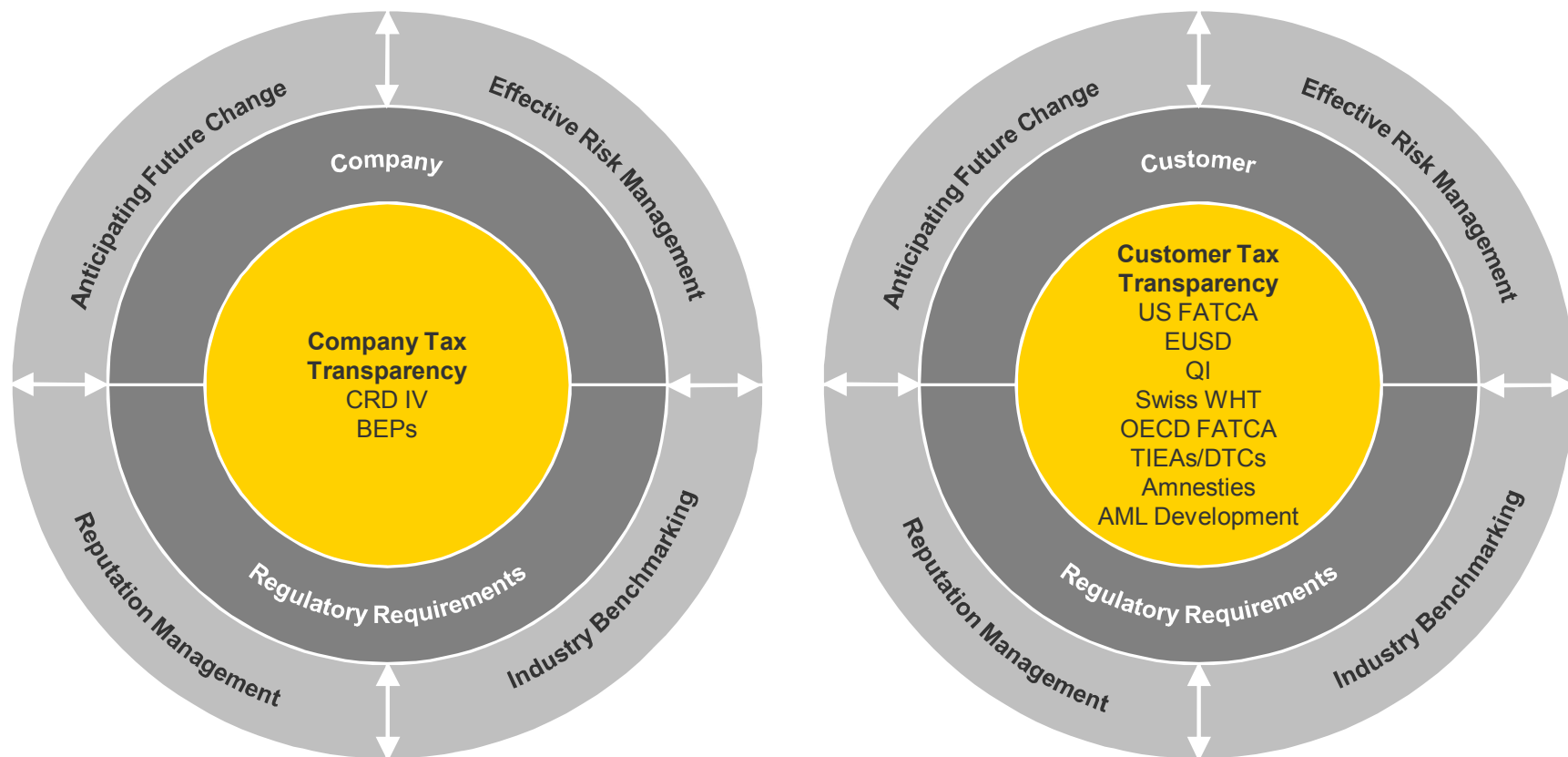
Source: FAZ of 28 March 2010

Tax transparency: *A matching mechanism*

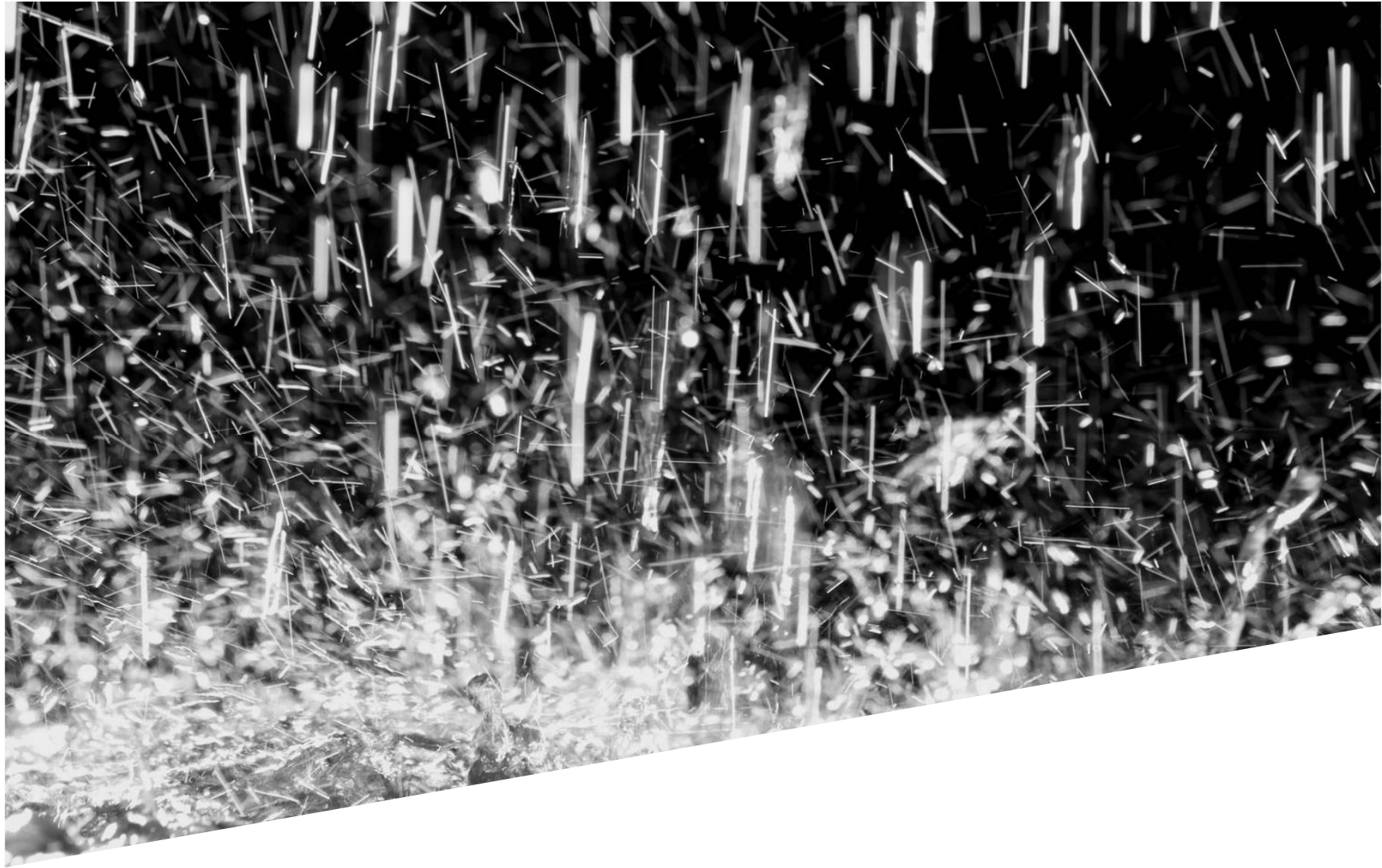


The tax transparency landscape today

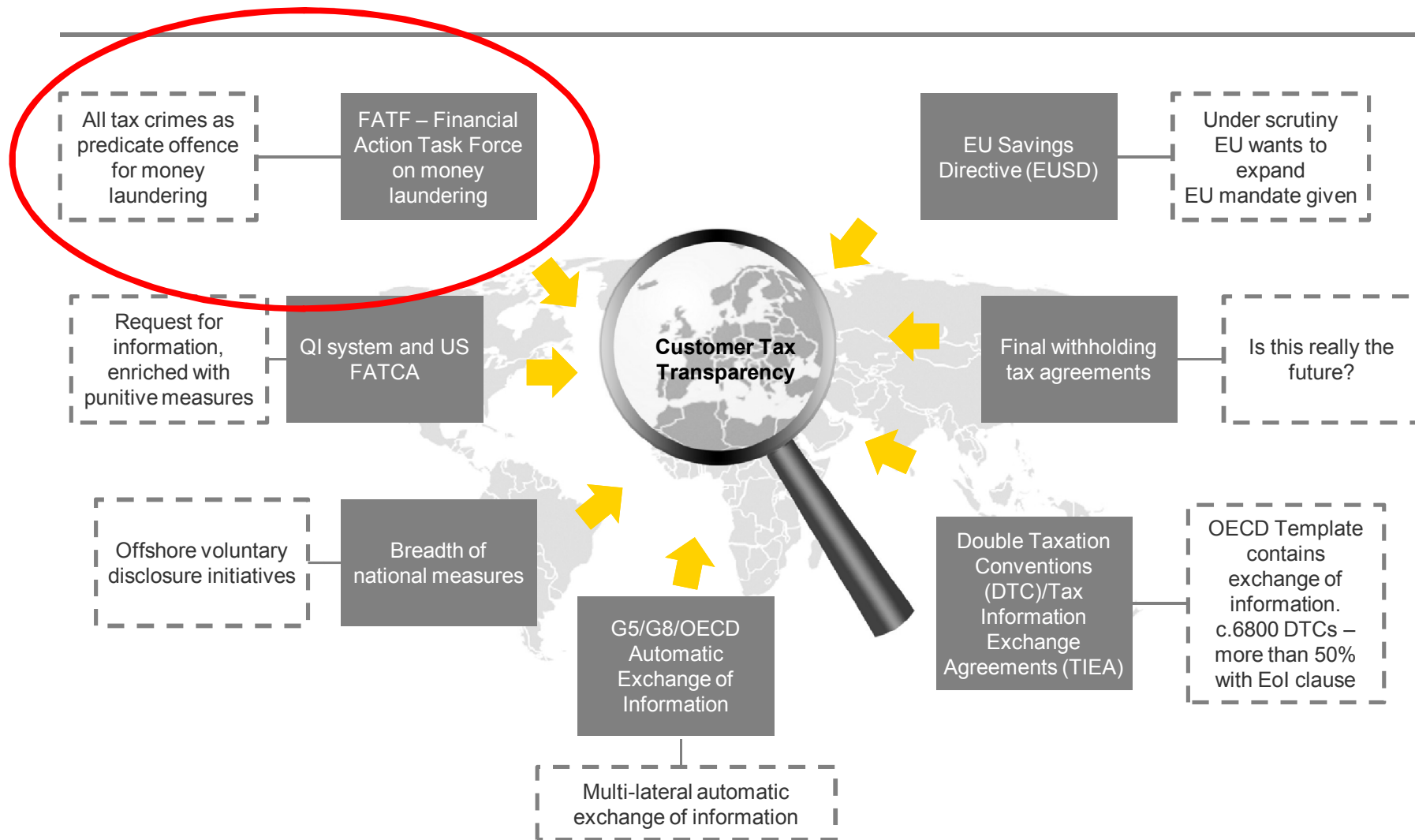
Financial institutions face increasing regulatory burden in respect of themselves and their customers. Yet it is increasingly clear that compliance is not enough



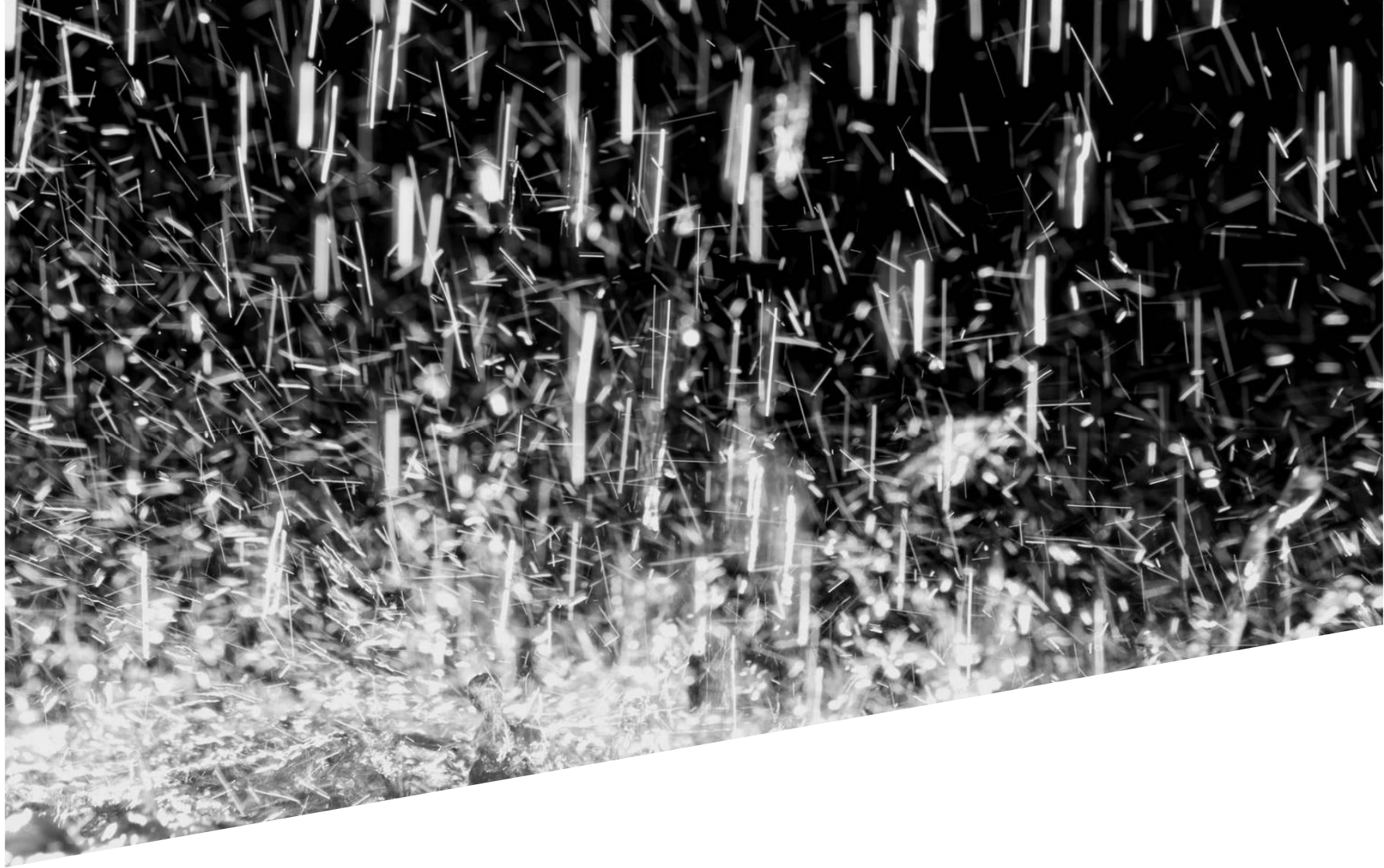
Tax transparency – regulatory developments



Customer tax transparency: The regulatory landscape



Financial Action Task Force



Financial Action Task Force

"The objectives the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international finance system"

The FATF 2012 Recommendations

- ▶ February 2012 revision: The International Standards on Combating Money laundering and the Financing of Terrorism & Proliferation – The FATF Recommendations
- ▶ FATF Recommendations 2012 revision, includes;
 - Transparency
 - FIs to identify & verify customers identity
 - Beneficial ownership
 - Bearer Shares & Warrants
 - **Tax crimes as predicate offences for money laundering**

The 2012 FATF Recommendations – Tax crimes

“Designated categories of offences means:

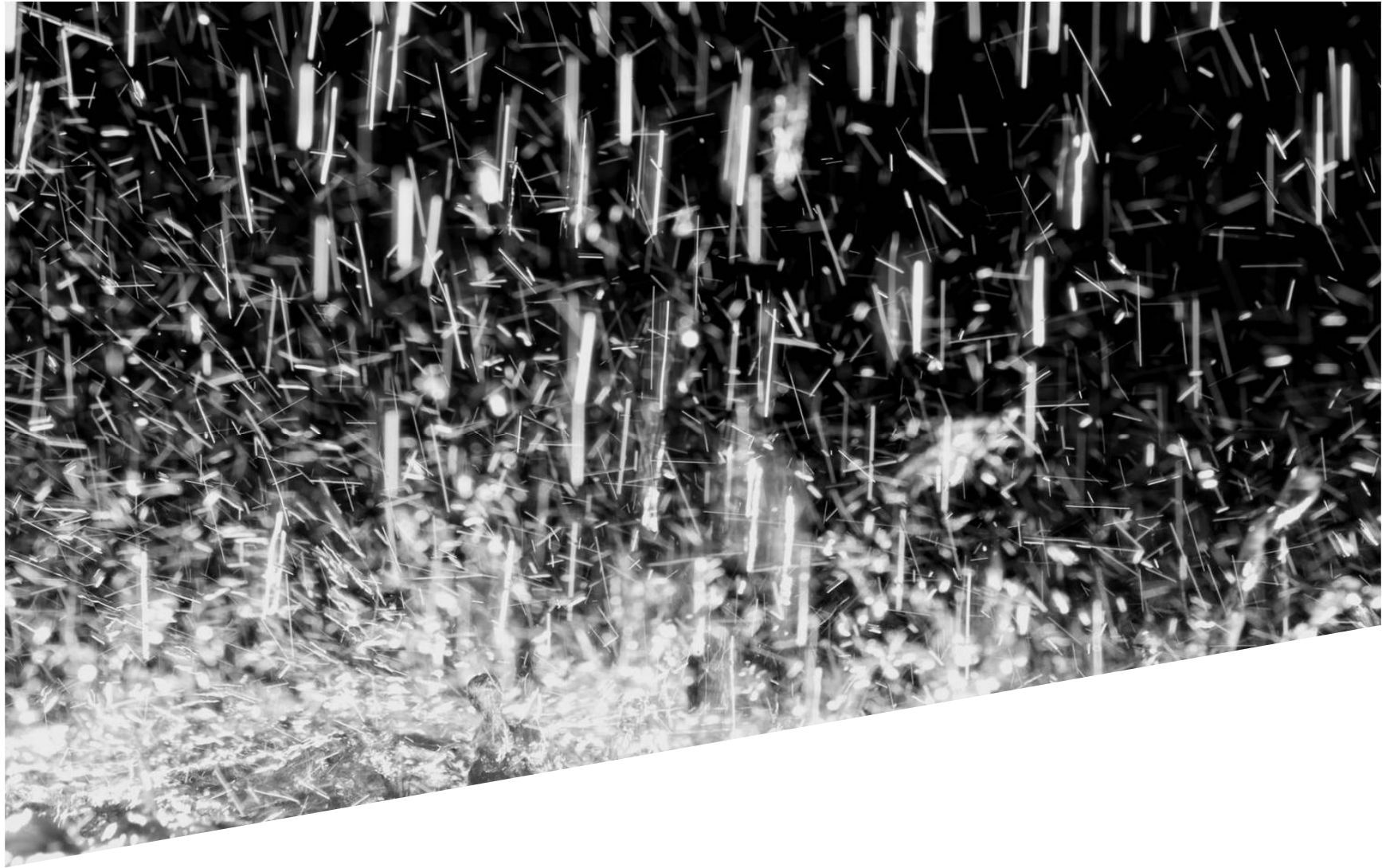
.....

- ▶ *smuggling; (including in relation to customs and excise duties and taxes);*
- ▶ *tax crimes (related to direct taxes and indirect taxes);*

.....”

➤ “Tax Crimes” are not defined in the FATF recommendations – domestic law definition

Tax crimes



Tax crimes = Willful and fraudulent tax evasion

Tax planning

Tax planning is arrangement of financial activities in such a way that maximises tax benefits, as provided under relevant tax laws. It envisages use of certain exemption, deductions, rebates and reliefs provided in tax laws.

Tax avoidance

Tax avoidance is minimizing the incidence of tax by adjusting the affairs in such a manner that although it is within the four corners of the laws, it is done with a purpose to reduce the incidence of tax. It is the act of aggressively reducing the incidence of tax without directly breaking the law.

Tax evasion

Taxpayers try to reduce their taxes by concealment or non-disclosure of income, inflation of expenses, falsification of accounts and willful violation of the provisions of the relevant tax law.

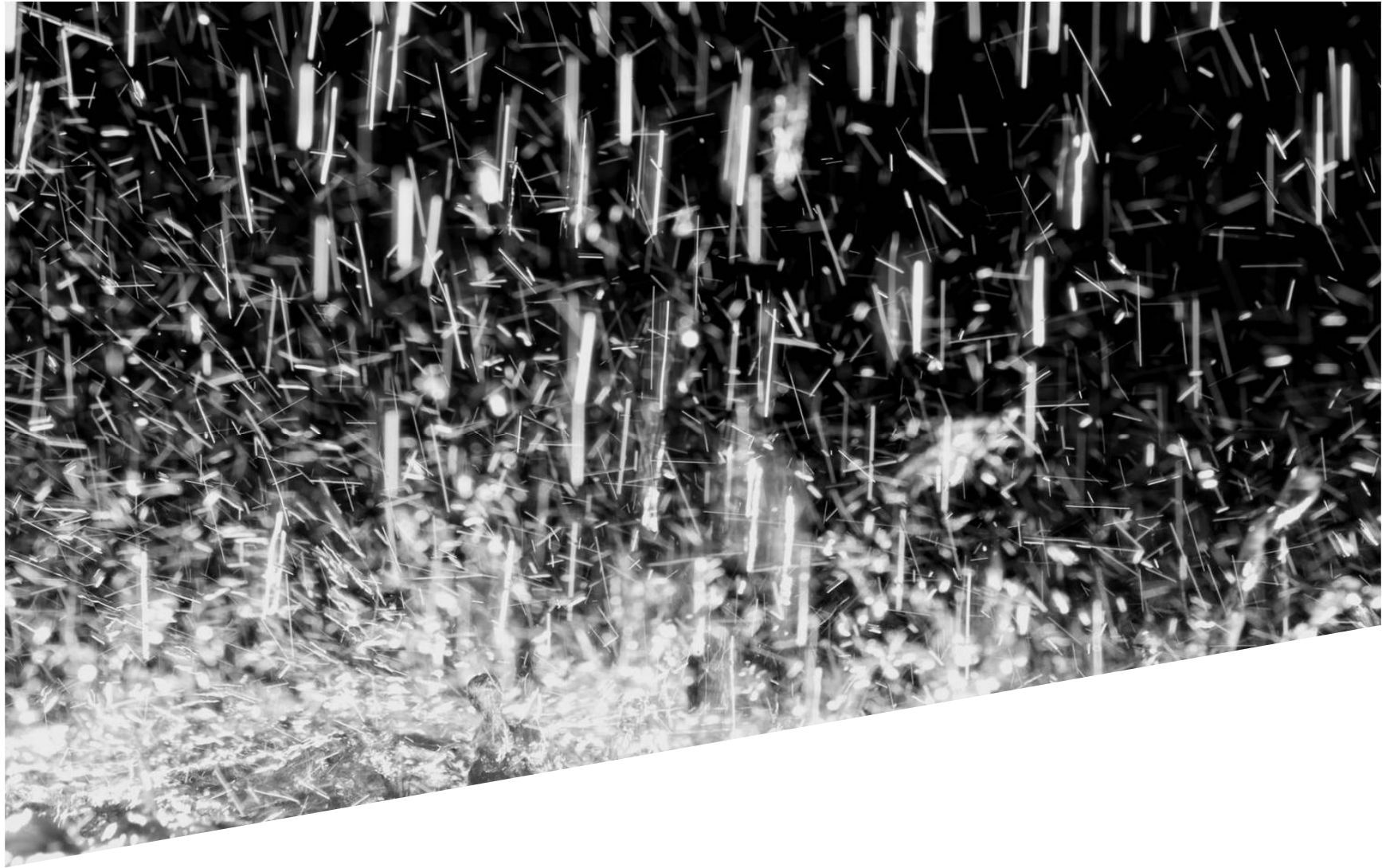
Tax evasion and tax avoidance

“The conceptual distinction between tax evasion and tax avoidance hinges on the legality of the taxpayer’s actions. Tax evasion is a violation of the law: When the taxpayer refrains from reporting income from labour or capital which is in principle taxable, he engages in an illegal activity that makes him liable to administrative or legal action from the authorities. In evading taxes, he worries about the possibility of his actions being detected. ”

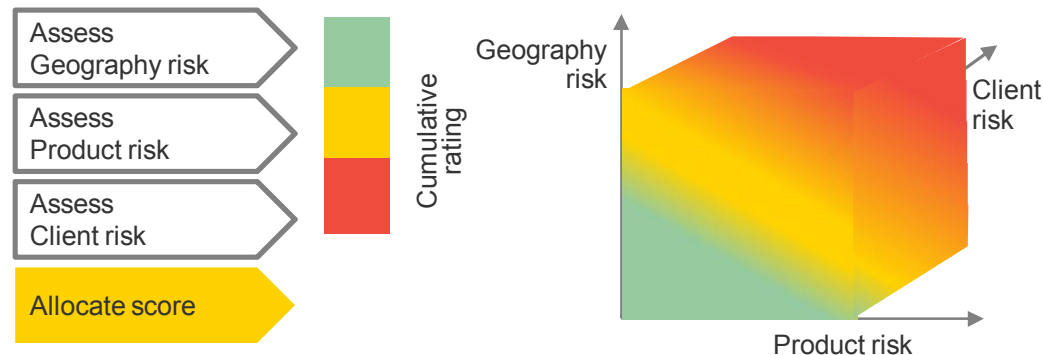
“the borderline between what seems morally right and wrong does not always coincide with the border between what is legal and illegal. ”

*Agnar Sandmo (Norwegian School of Economics and Business
Administration)
- Discussion Paper 31/04*

Tax evasion risk drivers



Customer tax transparency: Risk assessment approach



Example risk factors:

Geography risk

1. Current state of control environment of booking centre
2. Effective TIEA
3. Secrecy/Corruption index of the jurisdiction
4. Country regulatory procedures
5. Local filing requirements
6. AML process, etc.

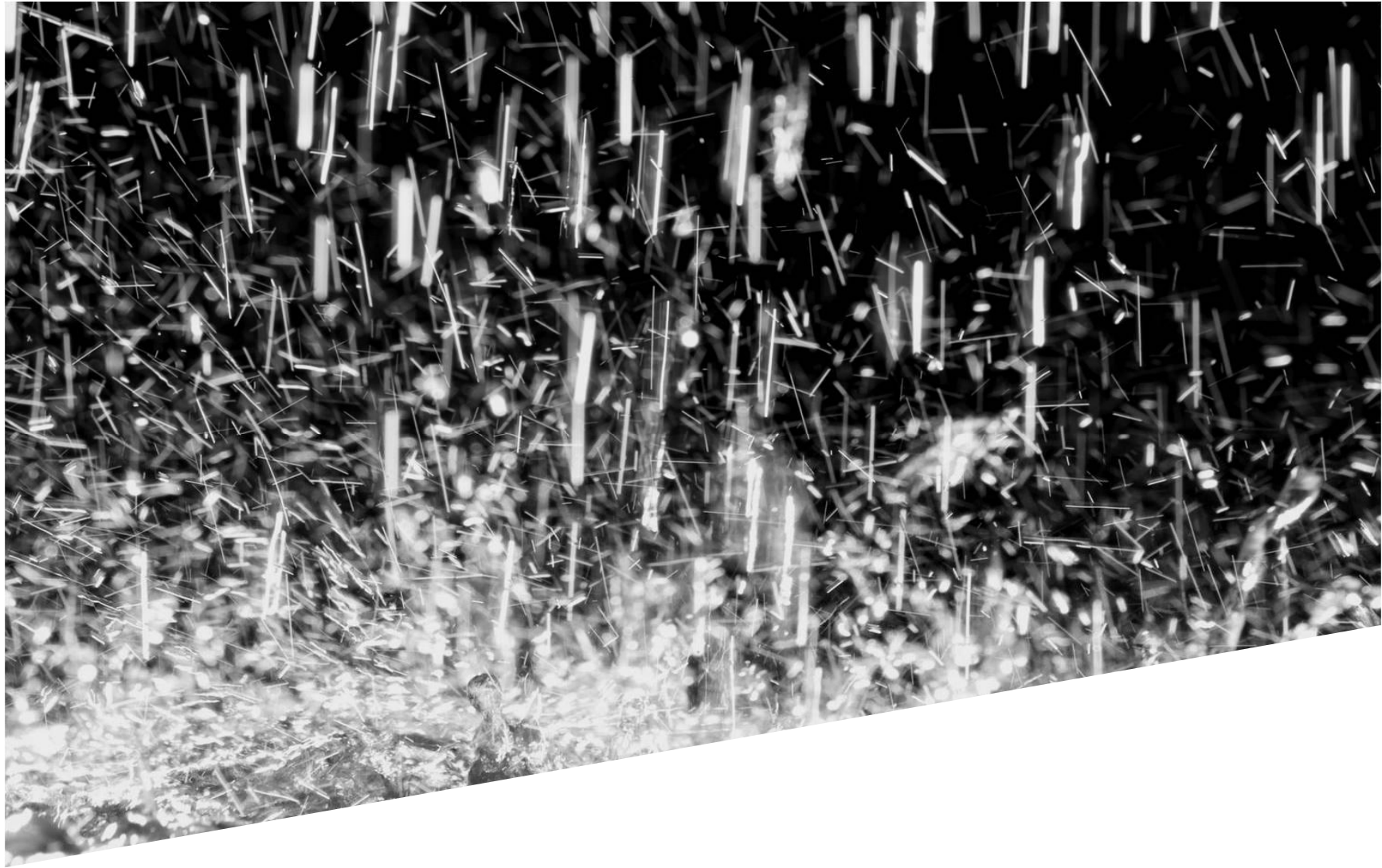
Client risk

1. Dual nationality, c/o addresses and hold email accounts
2. Opaque structures, (e.g., Bearer Shares)
3. Use of offshore banking
4. Politically exposed persons
5. Beneficial ownership with non-natural persons (close companies)
6. Account balance/assets migrated to another jurisdiction following change of law in current location
7. Banking behaviours

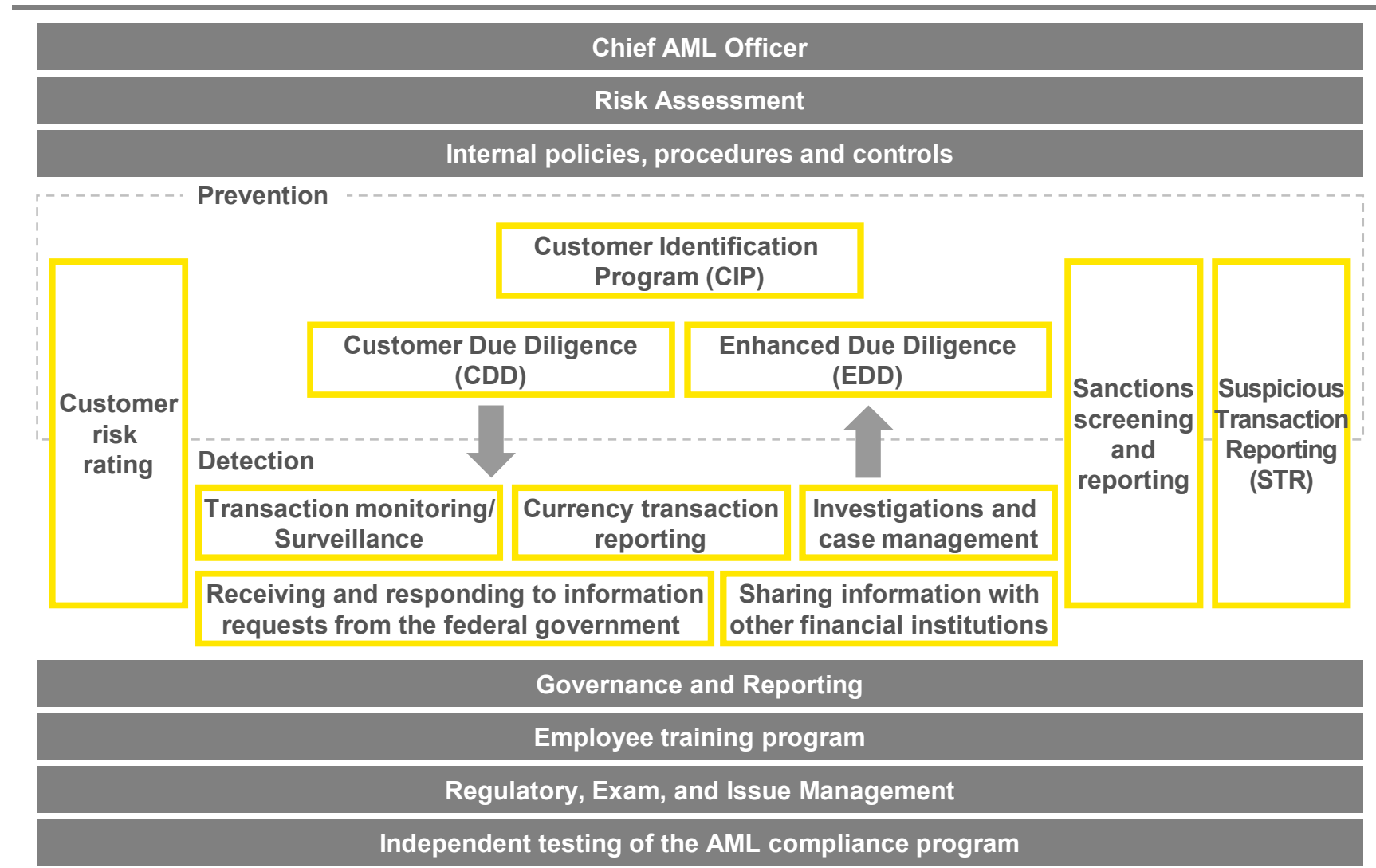
Transparency (of product) risk

1. Commercial purpose
2. Ability to trace beneficial ownership
3. Unexplained power of attorney
4. Extent to be able to be kept confidential from tax authorities
5. Multi-country products
6. Regulated products

Tax evasion AML program approach



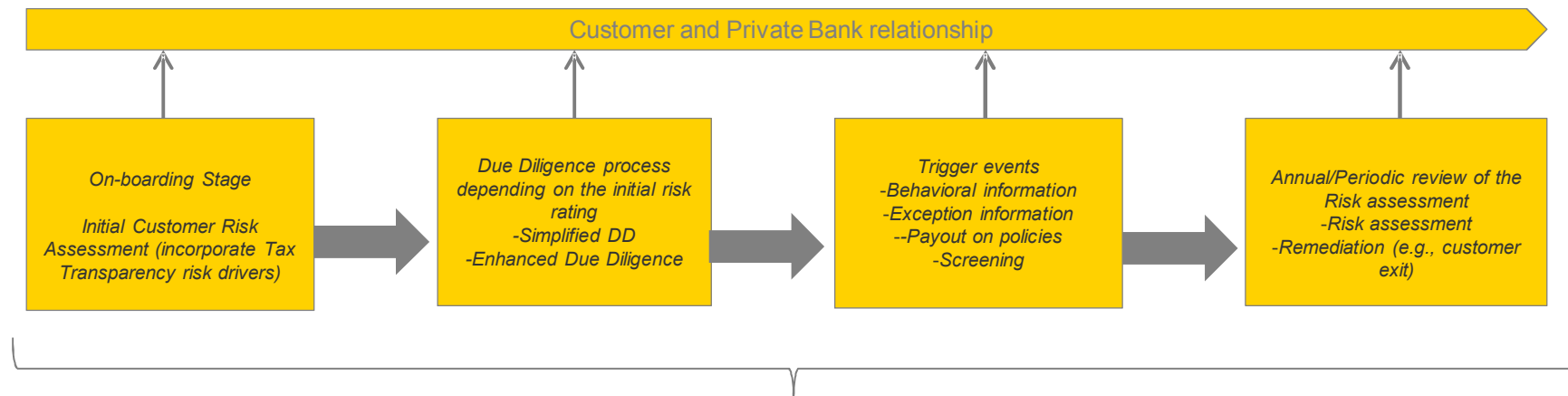
Key coverage themes of an AML program



Customer Tax Transparency Cycle

- ▶ As well as the initial risk assessment, it is also necessary to assess the risk of customer/product tax evasion at various points throughout the relationship with a customer:
 - ▶ Depending on the risk rating from the initial review, further due diligence may be required at on-boarding
 - ▶ Certain trigger events will prompt a review
 - ▶ Customers will be reviewed as part of the existing annual/periodic reviews
 - ▶ Review of beneficiaries on payout.

Customer and Private Bank relationship



Customer tax evasion
should be considered at
each stage

Thank you



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Contact us



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